

CHAPTER 47
RULES ON THE QUALIFICATIONS, APPOINTMENT AND
COMPENSATION OF COURT INTERPRETERS

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CHAPTER 47
RULES ON THE QUALIFICATIONS, APPOINTMENT AND COMPENSATION
OF COURT INTERPRETERS

[Prior to April 1, 2008, see Chapter 14]

Rule 47.1 Definition and minimum qualifications of a court interpreter.

47.1(1) Definition. A court interpreter is a person who transfers the meaning of spoken or written words or signs into the equivalent meaning in another oral or sign language during a court or an administrative law proceeding, during a proceeding preparatory to a court or an administrative law proceeding, during a program to which a court has ordered a limited English proficient (LEP) party to participate, or in an office of the Iowa judicial branch.

47.1(2) Qualifications.

a. Minimum age. A court interpreter shall be at least 21 years old. If this qualification is waived due to extraordinary circumstances under rule 47.1(3)(c), the court may approve an interpreter who is not less than 18 years old.

b. Education. A court interpreter shall have completed at least the equivalent of two years or forty-eight credit hours of college courses or shall have completed the requirements in rule 47.4 to qualify for the statewide roster of court interpreters, but in extraordinary circumstances the court may approve an interpreter who has not less than a high school diploma or its equivalent.

c. Court interpreter application form. A court interpreter shall complete an application form, developed by the director of the office of professional regulation (OPR), on which the interpreter shall provide information about the interpreter's education, experience, prior misconduct, and references to assist the court in determining the interpreter's qualifications for court interpreting.

d. Oath. A court interpreter shall take an oath asserting that the interpreter has the knowledge and skills to be a competent court interpreter, understands and will abide by the Code of Professional Conduct for Court Interpreters in Chapter 48 of the Iowa Court Rules, and will interpret in court to the best of the interpreter's ability.

e. Criminal records search. A criminal records search shall be completed by the OPR or a designee of the OPR at the time the application to be a court interpreter is filed with the OPR. The criminal record search may be waived for an interpreter who has had a criminal records search completed by the OPR or a designee of the OPR within six months of the filing date of the application.

f. Criminal record. An interpreter who has been convicted of a felony or any lesser crime of dishonesty or moral turpitude may be barred or suspended from being a court interpreter or subject to other appropriate discipline under rule 47.8.

(1) *Definition of a felony.* An offense is a felony if, by the law under which the person is convicted, it is so classified at the time of the person's conviction.

(2) *Effect of conviction.* When determining the appropriate effect of a criminal conviction on an interpreter's status, the director of the OPR may consider factors that include, but are not limited to: length of time since the offense, seriousness of the offense, age of the person at the time of the offense, evidence of the person's good character exhibited since the offense, and the person's candor in the application process.

g. Disciplinary action in another jurisdiction. An interpreter who has been barred or suspended from court interpreting in any other jurisdiction due to a criminal conviction, ethical violation, incompetence, or other reason may be similarly prohibited from being a court interpreter in Iowa.

47.1(3) Exceptions to court interpreter qualifications.

1 a. *Waiver of qualifications in civil proceedings.* In a civil proceeding, the court may waive one
2 or more of the requirements of rules 47.1(2)(a)-(e) when extraordinary circumstances exist as
3 defined in rule 47.1(3)(c).

4 b. *Waiver of qualifications in criminal and juvenile proceedings.*

5 (1) For an initial appearance in any criminal case or a simple misdemeanor proceeding in
6 which a defendant will not be incarcerated, the court may waive one or more of the requirements
7 of rules 47.1(2)(a)-(e) when extraordinary circumstances exist as defined in rule 47.1(3)(c). In all
8 other criminal or juvenile proceedings the court may waive one or more of the requirements of
9 rules 47.1(2)(c)-(e) when extraordinary circumstances exist, but the court may not waive the
10 requirements of rules 47.1(2)(a)-(b).

11 c. *Extraordinary circumstances.*

12 (1) For proceedings that will be short in duration, extraordinary circumstances exist when there
13 is no interpreter of the required language available through a telephone-based interpreter services
14 company approved by the state court administrator and rescheduling the proceeding to a later
15 date to obtain the services of an interpreter who meets the criteria in rule 47.1(2) would not be
16 justified given the time constraints for conducting the hearing and the seriousness of the matter
17 before the court.

18 (2) For proceedings that will be longer in duration, extraordinary circumstances exist when
19 there is no interpreter of the required language who is reasonably available to provide services in
20 person.

21 d. *Waiver of interpreter qualifications on the record.* Whenever the court waives one or more
22 of the qualifications under rule 47.1(2), the court must explain the reasons for the waiver on the
23 record.

24 [Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004;
25 August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008]

26 **Rule 47.2 Scheduling and appointing a court interpreter.**

27 **47.2(1)** *Persons who qualify for appointment of a court interpreter.* The court shall appoint a
28 qualified court interpreter for a limited English proficient (LEP) person who is a party or witness
29 in any court proceeding, a party ordered by the court to participate in a pre-disposition program,
30 or a parent, guardian, or custodian in any juvenile court proceeding.

31 **47.2(2)** *Application for appointment of a court interpreter.* An attorney shall file an
32 Application for Appointment of a Court Interpreter with the clerk of district court as soon as the
33 attorney learns that the attorney's client or a witness for a client needs an interpreter for a court
34 proceeding. A self-represented party should file an Application for Appointment of a Court
35 Interpreter with the clerk of district court as soon as the party learns that the party or a witness for
36 the party needs an interpreter for a court proceeding. Court staff should obtain the assistance of an
37 interpreter while helping an unrepresented LEP party complete the form.

38 **47.2(3)** *Priorities in the selection and appointment of a court interpreter.*

39 a. When a court or court staff learns that an interpreter will be needed for a court proceeding,
40 the court or court staff shall contact and select interpreters in the following order of preference
41 based on the classifications established in rule 47.3:

42 (1) Class A

43 (2) Class B

44 (3) Class C

45 (4) Unclassified

46 b. When the court finds two or more interpreters within classes A, B, or C who are reasonably

1 available, the court shall give preference to interpreters who are on the statewide roster.

2 c. A court shall appoint an unclassified interpreter as defined in rule 47.3(6) only in
3 extraordinary circumstances as defined in rule 47.1(3)(c).

4 **47.2(4) Use of telephone-based interpreter services.** A court shall employ an interpreter
5 accessed through a telephone-based interpreter service approved by the state court administrator
6 only for short hearings when there is no qualified interpreter of the required language who is
7 reasonably available to appear in person at the court proceeding.

8 **47.2(5) Order appointing a court interpreter.**

9 a. When the court learns prior to a proceeding that an interpreter will be needed for the
10 proceeding and a court interpreter has been procured consistent with rules 47.2(2) and (3), the
11 court may enter an order appointing the interpreter prior to the proceeding.

12 b. When the court or other government entity will pay the court interpreter, the order
13 appointing the interpreter shall set the level of compensation for the interpreter consistent with the
14 policies on compensation of interpreters established by the state court administrator.

15 **47.2(6) Examination of court interpreter qualifications.**

16 a. At the start of any court proceeding in which an interpreter will be providing services, the
17 court shall question the interpreter on the record regarding the interpreter's classification, status
18 on the roster of interpreters, and possible conflicts of interest. If the court finds the interpreter is
19 not a class A or class B interpreter, the court shall further inquire about the interpreter's
20 education, knowledge of English and the other language, and interpreting experience, even if the
21 interpreter was procured by the party needing the interpreter, by that party's attorney, or by court
22 staff prior to the proceeding.

23 b. If the court finds that the interpreter meets at least the minimum qualifications in rule
24 47.1(2), is the highest classified interpreter who is available consistent with rule 47.2(3), and has
25 no disqualifying conflict of interest, the court shall approve an existing order appointing the
26 interpreter or shall enter an order appointing the interpreter.

27 c. At any time during the proceeding, if the court finds a reasonable basis to believe that an
28 interpreter does not have the appropriate knowledge, skills, or experience to competently interpret
29 the proceedings, or that the interpreter has a disqualifying conflict of interest, the court shall not
30 appoint the interpreter or, if the proceeding has already begun, shall discontinue use of the
31 interpreter.

32 d. If the court declines to appoint an interpreter who appears at a proceeding, or dismisses an
33 interpreter after a proceeding has begun, and the hearing will be short in duration, the court may
34 obtain an interpreter through a telephone-based interpreter service approved by the state court
35 administrator; otherwise the court may postpone the proceeding, if necessary, to allow time for
36 court staff to procure the services of a qualified and neutral interpreter consistent with the criteria
37 in rule 47.2(3).

38 **47.2(7) Persons prohibited from appointment as a court interpreter.** A court shall not appoint a
39 person to be a court interpreter if that person is a family member or personal friend of one of the
40 parties or of the person needing an interpreter, or a person involved in the proceeding, including
41 but not limited to: a domestic abuse advocate, attorney, court-appointed special advocate
42 (CASA), juvenile court officer, or social worker.

43 **47.2(8) Disclosures by and objections to a court interpreter.**

44 a. Class A and B court interpreters, as defined in rule 47.3, shall be presumed competent to
45 interpret in all court proceedings.

46 b. A court interpreter shall promptly inform the court of any known factors that could
47 constitute a conflict of interest for the interpreter in the proceedings.

c. Objections regarding a court interpreter's competence or conflict of interest must be made within a reasonable time after the grounds for the objection become apparent. The court shall make rulings on objections of record.

47.2(9) Number of court interpreters.

a. A court may appoint more than one interpreter if it finds a reasonable basis for multiple interpreters.

b. When a party needs an interpreter and the court expects the interpreted event on a given day to be complex or more than four hours, the court shall appoint more than one interpreter to serve as a team during the court proceedings and may appoint more than one interpreter for a court-related event that is preparatory to a court proceeding.

c. When two or more parties with adverse interests in a case need an interpreter, the court shall appoint a separate interpreter for each party unless the parties waive the right to separate interpreters.

d. Whenever a government entity will be responsible for paying the interpreters, more than one interpreter will be paid for services during the same court or court-related proceeding only if a court enters an order appointing more than one interpreter.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008]

Rule 47.3 Classification of court interpreters — definitions.

47.3(1) Class A court interpreter for the deaf and hard-of-hearing. A Class A court interpreter for the deaf and hard-of-hearing is a certified interpreter who is listed on the directory provided by the Iowa Department of Human Rights and who holds a specialist certificate: legal (SC:L) from the National Testing System of the Registry of Interpreters for the Deaf.

47.3(2) Class B court interpreter for the deaf and hard-of-hearing. A Class B court interpreter for the deaf and hard-of-hearing is a noncertified interpreter who is listed on the directory provided by the Iowa Department of Human Rights and who has taken the National Interpreter Certification (NIC) exam and achieved any of the following levels of qualification: Generalist, Advanced, or Master, or holds a valid comprehensive skills certificate (CSC), a master comprehensive skills certificate (MCSC), or both a certificate of interpretation (CI) and a certificate of transliteration (CT) from the National Testing System of the Registry of Interpreters for the Deaf.

47.3(3) Class A oral language court interpreter. A Class A oral language court interpreter is a certified interpreter who has met the requirements in rule 47.4 to be on the statewide roster of court interpreters and has done one of the following:

a. Satisfied all certification requirements for an oral language interpreter established by the Federal Court Interpreter Certification Program or the National Association of Judiciary Interpreters and Translators.

b. Taken oral interpretation exams for court interpreter certification approved by the Language Access Services Division of the National Center for State Courts' (NCSC), and achieved a passing score of at least 70 percent correct on each of the three parts of the oral exam (sight interpretation of written documents, consecutive interpretation, and simultaneous interpretation) in a single test session.

47.3(4) Class B oral language court interpreter. A Class B oral language court interpreter is a noncertified interpreter who has met the requirements in rule 47.4 to be on the statewide roster of court interpreters and has done one of the following:

a. Taken one of the court interpreter certification exams identified in rule 47.3(3) and did not

1 meet the test score requirements for certification in rule 47.3(3)(b), but achieved an average score
2 of at least 65 percent correct on the three parts of the oral interpretation exam in one test session.

3 *b. Met the oral interpretation exam score requirements for court interpreter certification in a*
4 *state that uses the oral interpretation exams approved by the NCSC, but did not achieve scores of*
5 *at least 70 percent correct on all three parts of the oral exam in a single test session.*

6 *c. Completed a college-level court interpreter training program approved by the director of the*
7 *OPR with a grade point average of at least 3.0.*

8 **47.3(5) Class C oral language court interpreter.** A Class C oral language court interpreter is a
9 noncertified interpreter who has met the criteria under rule 47.4 to qualify for the statewide roster
10 of court interpreters, but has not met the criteria under rule 47.3(3) or (4) to be a Class A or B oral
11 language court interpreter.

12 **47.3(6) Unclassified court interpreter.** An unclassified sign language court interpreter has not
13 met the requirements in rules 47.3(1) or (2) to be a Class A or Class B interpreter for the deaf or
14 hard-of-hearing. An unclassified oral language interpreter has not met the requirements under
15 rules 47.3(3), (4), or (5) to be a Class A, Class B, or Class C oral language interpreter.

16 [Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1,
17 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10,
18 2009]

19 **Rule 47.4 Statewide roster of court interpreters.**

20 **47.4(1) Management.** The director of the OPR shall maintain and publish a statewide roster of
21 court interpreters and may determine the order in which testing and training requirements in rule
22 47.4(2) shall be completed by interpreters to qualify for the roster.

23 **47.4(2) Testing and training requirements.** To be included on the roster, an interpreter must
24 meet the qualifications in rule 47.1(2) and the following requirements:

25 *a. Ethics exam.* All interpreters must take a written exam on the Code of Professional
26 Conduct for Court Interpreters and achieve a score of at least 75 percent correct, unless the
27 interpreter has taken the same or a similar exam in another state and achieved a score of at least
28 75 percent correct.

29 *b. Written exam approved by the NCSC.* Interpreters must achieve a score of at least 80 percent
30 correct on a written exam for court interpreters approved by the NCSC that includes at least the
31 following areas: general English vocabulary, legal terminology, and legal procedures. This
32 requirement may be waived by the director of the OPR if the interpreter has taken the same test in
33 another jurisdiction within the past five years, achieved a score of 80 percent correct, and has
34 regularly provided court interpreter services each year since taking the exam.

35 *c. Oral proficiency interview exam.* Under the supervision of OPR staff or a designee of the
36 director of the OPR, an oral language interpreter must complete an oral proficiency interview
37 (OPI) exam offered by ALTA Language Services in the interpreter's non-English language and
38 achieve a score of at least 11 on a scale of 12. Interpreters classified as class A or B before [the
39 date this rule becomes effective] shall not be required to take this exam. Class C interpreters on
40 the roster of court interpreters before [the date this rule becomes effective] must pass this exam
41 within six months after that date to remain on the roster. Interpreters not on the roster before [the
42 date this rule becomes effective] must pass ALTA's OPI exam to be listed on the roster.

43 *d. Court interpreter orientation program.* An interpreter must complete the court interpreter
44 orientation program approved by the director of the OPR. This requirement may be waived by the
45 director of the OPR for an interpreter who has completed a similar training program in another
46 jurisdiction within the past three years, and has regularly provided court interpreter services each

1 year since completing that program.

2
3 **Rule 47.5. Mandatory continuing education.** Interpreters on the statewide roster of court
4 interpreters must satisfy continuing education requirements to remain on the roster and, if
5 certified, to keep their certified status.

6 **47.5(1) Annual reporting deadline, fee, and hours required.**

7 *a. Annual report deadline.* Beginning in 2014, by May 15 of each year interpreters on the
8 statewide roster of court interpreters must file a continuing education report with the office of
9 professional regulation (OPR), using a form provided by that office, in which the interpreter must
10 report continuing education contact hours for the previous calendar year.

11 *b. Annual report fee.* Upon the filing of the annual continuing education report, interpreters on
12 the statewide roster shall pay a fee of \$10 to the OPR.

13 *c. Required hours of continuing education.* Beginning in 2013, during each calendar year
14 interpreters on the statewide roster must attend at least six contact hours of continuing education
15 that contributes directly to the professionalism and competency of the court interpreter. At least
16 one of the six hours must address court interpreter ethics. Court interpreters on the statewide
17 roster do not have to meet these continuing education requirements during the first calendar year
18 they are on the roster, but they must file the annual continuing education report and pay the
19 annual continuing education fee by May 15 of the following calendar year.

20 **47.5(2) Education program requirements.** Live, interactive computer-based education can be
21 used to fulfill the continuing education requirements. Up to three hours of the continuing
22 education requirements can be fulfilled by webcast-on-demand education. Webcast-on-demand
23 education may only be accepted if it includes streaming audio and video and presents the
24 opportunity to submit questions that will be answered within 72 hours of the request. The OPR's
25 assistant director for admissions may request additional information on a program for which
26 continuing education credit is sought, and may refer the program to a panel of the Language
27 Access in the Courts Advisory Committee for a decision as to whether the program should be
28 approved.

29 **47.5(3) Carry-over of continuing education contact hours.** Up to six hours of continuing
30 education can be carried over from one reporting period into the next reporting period. There will
31 be no carry-over of hours beyond one reporting period, and ethics credits may not be carried over
32 except as regular credit hours.

33 **47.5(4) Late filing of report; penalty and suspension.** Court interpreters who miss the May 15
34 deadline may file their annual reports on or before August 15, but they must assert good cause for
35 failing to meet the deadline and pay the annual report fee in rule 47.5(1)(b) plus a late fee of \$35.
36 Court interpreters who fail to file their report on or before August 15 will have their names
37 removed from the statewide roster and their certified status, if any, suspended.

38 **47.5(5) Agreed extension; suspension.** Court interpreters who file a report on or before August
39 15, but cannot report sufficient continuing education hours, may reach an agreement with the
40 assistant director to complete the missing continuing education within 90 days of August 15.
41 Court interpreters who do not report sufficient continuing education hours under this rule and do
42 not complete any required continuing education under a settlement agreement will have their
43 name removed from the roster and their certified status, if any, suspended.

44 **47.5(6) Application for reinstatement.** An interpreter who is sanctioned for failure to comply
45 with the reporting requirements of this rule may file an application for reinstatement of their name
46 to the roster and of their certified status, if applicable, along with a \$100 reinstatement fee. The
47 application must be filed with the OPR. The interpreter must file all missing reports, show any

1 missing continuing education hours have been obtained, and pay any unpaid filing fees. The
2 assistant director may determine whether any additional conditions for reinstatement are
3 necessary.

4 **47.5(7) Certificate of exemption.** An interpreter may request a certificate of exemption from
5 the continuing education requirements of this rule, and the certificate of exemption shall be
6 issued. If a certificate of exemption is issued, the interpreter's name shall be removed from
7 official roster of court interpreters. The interpreter may seek reinstatement following exemption
8 under the provisions of rule 47.5(6). If the exemption period exceeds five years, the interpreter
9 may be required to retake the interpreter orientation program and (or) such testing as the assistant
10 director may direct.

11 [Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1,
12 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10,
13 2009]

14 **Rule 47.6 Application, test registration, and continuing education fees.**

15 **47.6(1)** The application fee to be an oral or sign language court interpreter is \$25. This fee
16 shall not be waived or refunded.

17 **47.6(2)** The registration fee for the two written examinations identified in rule 47.4(2)(a) and
18 (b) is \$50 for Iowa residents and \$100 for nonresidents. If the applicant already has passed at least
19 one of the two examinations, the registration fee is \$25 for Iowa residents and \$50 for
20 nonresidents.

21 **47.6(3)** The registration fee for each oral proficiency interview exam shall be \$65 for Iowa
22 residents and \$130 for nonresidents.

23 **47.6(4)** The registration fees for the three-part oral interpretation (certification) examination
24 approved by the NCSC's Language Access Services Division: \$250 for Iowa residents and \$500
25 for nonresidents.

26 **47.6(5)** The annual continuing education reporting fee is \$10.

27 **47.6(6)** All fees in this section shall be paid to the OPR. The interpreter application fee is due
28 at the time the application is filed. Test registration fees are due on or before the registration
29 deadline established by the OPR. The annual continuing education reporting fee is due by May 15
30 of each year beginning in 2014.

31 [Court Order August 10, 2009]
32

33 **Rule 47.7 Language Access in the Courts Advisory Committee**

34 **47.7(1) Purpose:** A Language Access in the Courts Advisory Committee (advisory
35 committee) shall be appointed to provide guidance to the state court administrator regarding
36 language access policies in the courts and to assist the OPR's assistant director for admissions in
37 administering the continuing education and disciplinary systems for court interpreters and
38 translators.

39 **47.7(2) Membership and organization:** The advisory committee shall be a voluntary group
40 consisting of the OPR's assistant director for admissions and at least one representative from each
41 of the following: the State Court Administrator's Office, judges of the district court,
42 administrative law judges, district court administrators, Iowa lawyers, Iowa Legal Aid, State
43 Public Defender's Office, Office of Latino Affairs, Office of Asian and Pacific Islander Affairs,
44 Deaf Services Commission of Iowa, and certified court interpreters. Members of the advisory
45 committee shall be appointed by and serve at the discretion of the Iowa supreme court. The
46 advisory committee by majority vote shall choose a member to act as chair for a one-year period,

1 effective from the date of election. The chair shall choose a member to act as vice-chair to
2 perform duties in the chair's absence or other duties as needed. As these rules or the
3 circumstances may dictate, the chair may determine whether the advisory committee will act as a
4 whole or in panels of at least three committee members to consider and act on a complaint. The
5 chair also shall decide the composition of any panel.

6
7 **Rule 47.8 Disciplinary actions.**

8 **47.8(1) Purpose.** These rules establish a disciplinary process that ensures due process for
9 court interpreters formally accused of misconduct under rule 47.8(5).

10 **47.8(2) Applicability.** These rules shall apply to the delivery of services by oral and sign
11 language interpreters working in the courts and other offices of the Iowa judicial branch. These
12 rules shall also apply to any legal action preparatory to appearing before any court, whether civil,
13 criminal, or juvenile in nature, and any proceeding before any administrative agency which is
14 quasi-judicial in nature and which has direct legal implications to any person. These rules also
15 apply to real-time reporters when functioning in the capacity of providing language access to
16 court users.

17 **47.8(4) Procedures.**

18 *a. Complaints.* A complaint against a court interpreter or translator shall be filed with OPR
19 on a form available from that office or through the Iowa judicial branch website. A complaint
20 must be signed by the complainant, provide the complainant's full address, phone number, and
21 email address, if any, and contain substantiating evidence to support the complaint.

22 *b. Review of complaints.* The assistant director for admissions shall review all complaints and
23 may seek additional information from the complainant if necessary. The assistant director may
24 informally consult with members of the Language Access in the Courts Advisory Committee
25 (advisory committee) in making the initial assessment of the complaint.

26 *c. Dismissal of complaints.* The assistant director may dismiss the complaint without further
27 action if it appears the complaint wholly lacks merit, alleges conduct that, even if true, does not
28 rise to the level of a disciplinary violation under the Code of Professional Conduct for Court
29 Interpreters, or does not comply with the requirements for a complaint or is not supplemented as
30 requested. In such instances, the assistant director shall notify the complainant and may merely
31 state that after review the complaint has been dismissed. The assistant director's decision is not
32 subject to review.

33 *d. Responses to complaints.* If the assistant director does not dismiss the complaint, the
34 assistant director shall notify the interpreter of the complaint and request a written response from
35 the interpreter within 21 days after notice of the complaint is issued. An interpreter's failure to
36 file a timely response or obtain an extension of time in which to do so shall be deemed an
37 admission by the interpreter of the facts alleged in the complaint. The assistant director may
38 forward the interpreter's response to the complainant and allow the complainant to file a reply
39 within 14 days after service of the response. After all responses have been received, or the time
40 for filing them has expired, the assistant director may dismiss the complaint under the provisions
41 of rule 47.8(4)(c) above, assign the matter for further investigation, or refer the complaint to the
42 chair of the advisory committee. If the complaint is dismissed, the assistant director shall notify
43 the complainant and the interpreter and may merely state that after review the complaint has been
44 dismissed.

45 *e. Referral to advisory committee.* If the matter is not dismissed, the assistant director shall
46 notify the chair of the advisory committee, who shall determine whether the complaint should be
47 considered by the whole committee or a panel of advisory committee members. If the chair

determines that the complaint should be considered by a panel, the chair shall appoint a panel consisting of at least three members of the advisory committee. The advisory committee or the panel shall determine the complaint upon the papers filed unless the interpreter requests a hearing in the response to the complaint or the panel determines that a hearing is necessary.

f. Hearing and decision.

(1) *Time and format of hearing.* A hearing shall be scheduled within 60 days after the complaint is assigned to the advisory committee or panel. The hearing shall be informal; strict rules of evidence shall not apply, but the interpreter shall have the right to be represented by counsel at the interpreter's expense, to confront and cross-examine witnesses, and to present evidence in defense of the matter. The attorney general or the attorney general's designee may present evidence in support of the complaint at the hearing, except to the extent that facts have been deemed admitted under rule 47.8(4)(d).

(2) *Location, subpoenas, and recording.* The hearing will be held in the county where the interpreter resides or where the alleged violation occurred unless the assistant director and the interpreter agree otherwise. An advisory committee panel member, the interpreter, or the attorney general or the attorney general's designee may request the clerk of the district court of the county in which the disciplinary hearing is to be held to issue subpoenas of every kind in connection with the matter, and the clerk shall issue the same. Any member of the advisory committee panel is empowered to administer oaths or affirmations to all witnesses. The hearing shall be recorded electronically, unless the interpreter pays for a court reporter and the subsequent transcript, if necessary.

(3) *Standard of review.* Any grounds for discipline under Iowa Court Rule 47.8(5) must be shown by a convincing preponderance of the evidence.

(4) *Advisory committee actions.* The advisory committee panel may:

1. Dismiss the complaint.
2. Impose a private admonition.
3. Enter into a stipulated disposition with the interpreter.
4. Impose a public reprimand.
5. Require the interpreter to refund fees to a client or governmental agency for court interpreter services.
6. Require that the interpreter take specified education courses.
7. Suspend or revoke the interpreter's certification or roster status.
8. Suspend or bar the interpreter from interpreting in court-related or administrative law proceedings.

g. Petition for review. The interpreter may seek review of the advisory committee panel's decision by filing a petition for review with the clerk of the supreme court within 30 days after the advisory committee or panel delivers its decision to the interpreter. The interpreter shall serve a copy of the petition and any attachments on the assistant director and any attorneys appearing in the proceeding. The petition shall state all claims of error that were raised before the panel and the reasons for challenging the panel's determination before the supreme court. The petition must be accompanied by a \$150 filing fee. The assistant director shall transmit the complete record in the case to the clerk of the supreme court.

h. Submission and decision on review. Unless the supreme court orders otherwise, the petition will be submitted based upon the record previously made and without oral argument. After considering the record, the court shall enter an order sustaining or denying the petition or entering such other order as the court deems to be appropriate. The court's order shall be conclusive, and no petition for rehearing will be permitted.

1 *i. Costs.* Costs of the proceeding shall be assessed against the interpreter for any private
2 reprimand, public sanction, or any agreed disposition that includes a provision taxing costs
3 against the interpreter. For purposes of this rule, costs shall include those expenses normally
4 taxed as costs in state civil actions pursuant to Iowa Code chapter 625, including, but not limited
5 to expert witness fees, translation, transcription, and interpreter fees. The interpreter must pay the
6 costs as a condition for reinstatement.

7 *j. Application for reinstatement.* An interpreter may file an application for reinstatement
8 from an order suspending or revoking the interpreter's certification, roster status, or privilege of
9 interpreting in court. The interpreter shall file the application for reinstatement with and shall pay
10 a \$100 reinstatement fee to the office of professional regulation. The application shall be served
11 upon the clerk of the supreme court, all attorneys appearing in the underlying proceeding, the
12 state court administrator, and the chief judge of the judicial district in which the interpreter
13 resides. The application must show that all conditions for reinstatement imposed in the panel's
14 decision or any resulting supreme court decision have been satisfied, that the interpreter has not
15 engaged in prohibited interpreting while suspended, that the interpreter is currently fit to interpret
16 in court, and that all costs have been paid. An interpreter who engages in prohibited interpreting
17 while suspended may be subject to additional discipline.

18 *k. Reinstatement decision.* The application for reinstatement shall be forwarded by the
19 assistant director to the advisory committee. The committee may direct that reinstatement be
20 granted, set the matter for hearing, or enter such other disposition or order as the matter requires.

21 *l. Confidentiality.*

22 (1) All records, papers, proceedings, meetings, and hearings of the advisory committee or an
23 advisory committee panel shall be confidential, unless the committee or panel imposes a public
24 letter of caution, a public reprimand, a suspension or revocation of the interpreter's certificate,
25 roster status, or privilege to interpret before the courts, or imposes a form of discipline that the
26 committee or panel and the interpreter agree should be public (public discipline).

27 (2) If the committee or panel imposes public discipline, the decision and the complaint filed
28 with the office of professional regulation shall be public documents upon their filing with the
29 clerk of the supreme court.

30 (3) Any other records and papers concerning any complaint against an interpreter shall
31 remain privileged and confidential and are not subject to discovery, subpoena, or other means of
32 legal compulsion for their release to a person other than the interpreter, the attorneys, or the
33 attorneys' agents involved in the proceeding before the committee or panel. The interpreter, the
34 attorneys, or the attorneys' agents involved in the proceeding before the advisory committee shall
35 not disclose any records and papers of the committee or committee panel concerning any
36 complaint to any third parties unless disclosure is required in the prosecution or defense of
37 disciplinary charges. The confidential records and papers concerning any complaint shall not be
38 admissible as evidence in a judicial or administrative proceeding other than the formal interpreter
39 disciplinary proceeding under this rule.

40 (4) Every witness in every proceeding under this chapter shall swear or affirm to tell the
41 truth and not to disclose the existence of the proceedings or the identity of the interpreter until the
42 proceeding is no longer confidential under these rules.

43 (5) All communications, papers, and materials concerning any complaint which may come
44 into the possession of a committee member shall remain confidential and the member shall keep
45 the same in a safe and secure place.

46 (6) Nothing in this rule shall prohibit the advisory committee or an advisory committee panel
47 from releasing any information regarding possible criminal violations to appropriate law

1 enforcement authorities, wherever located, or to interpreter disciplinary and interpreter admission
2 authorities in other jurisdictions

3 *m. Temporary suspension.* Notwithstanding the provisions of this rule, the state court
4 administrator may temporarily suspend the right of any interpreter to interpret before the Iowa
5 courts upon a showing of a clear violation of the Iowa Code of Professional Conduct for Court
6 Interpreters and of exigent circumstances demonstrating the interpreter currently lacks the
7 capacity to interpret before the courts. Any order suspending the interpreter's right to interpret
8 before the Iowa courts must provide the interpreter with an opportunity to appear before the
9 supreme court and show cause why the temporary suspension order should be lifted.

10 **47.8(5) Grounds for discipline.** A court interpreter shall be subject to disciplinary action for
11 any of the following reasons:

12 *a.* Unprofessional or unethical conduct that violates the Code of Professional Conduct for
13 Court Interpreters.

14 *b.* Conviction, in this state or any other jurisdiction, of a felony or conviction of a lesser crime
15 that involves dishonesty or moral turpitude; a crime is a felony if it is so defined in the
16 jurisdiction where the conviction was entered at the time of the conviction.

17 *c.* Disciplinary action taken in conjunction with the interpreter's services in another
18 jurisdiction.

19 *d.* Incompetence, which includes but is not limited to, repeated incomplete or inaccurate
20 interpretation that significantly inhibits or distorts communications between an LEP person and
21 the court or between an LEP person and that person's attorney.

22 *e.* Receipt of a certificate of noncompliance from the Child Support Recovery Unit, pursuant
23 to the procedures set forth in Iowa Code chapter 252J.

24 *f.* Receipt of a certificate of noncompliance from the College Student Aid Commission,
25 pursuant to the procedures set forth in Iowa Code chapter 261.

26 *g.* Receipt of a certificate of noncompliance from the Centralized Collection Unit of the
27 Department of Revenue, pursuant to the procedures set forth in Iowa Code chapter 272D.

28 **47.8(6) Aggravating or mitigating circumstances.** When determining the appropriate sanction,
29 the advisory committee may consider factors that include, but are not limited to, the following:

30 *a. Aggravating circumstances.* Aggravating circumstances are any considerations or factors
31 that may justify an increase in the degree of discipline to be imposed. Aggravating circumstances
32 include, but are not limited to:

33 (1) Prior disciplinary offenses.

34 (2) Dishonest or selfish motive.

35 (3) A pattern of misconduct.

36 (4) Multiple offenses.

37 (5) Bad faith obstruction of the disciplinary proceeding.

38 (6) Submission of false evidence, false statements, or other deceptive practices during the
39 disciplinary process.

40 (7) Refusal to acknowledge wrongful nature of conduct.

41 (8) Harm caused by the misconduct.

42 (9) Substantial experience as a court interpreter.

43 *b. Mitigating circumstances.* Mitigating circumstances are any considerations or factors that
44 may justify a reduction in the degree of discipline to be imposed. Mitigating circumstances
45 include, but are not limited to:

46 (1) Absence of a prior disciplinary record.

47 (2) Absence of a dishonest or selfish motive.

- (3) Personal or emotional problems contributed to the misconduct.
- (4) Timely good faith effort to rectify consequences of the misconduct.
- (5) Full and free disclosure to the advisory committee or cooperative attitude toward proceedings.
- (6) Inexperience as a court interpreter.
- (7) Character or reputation.
- (8) Physical or mental disability or impairment.
- (9) Interim rehabilitation.
- (10) Remorse.
- (11) Remoteness of prior offenses.

47.8(7) Continuing duty to disclose. A court interpreter has a continuing duty to disclose to the assistant director any criminal conviction or disciplinary action against the interpreter in another state or federal jurisdiction that could result in disciplinary action under this rule.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; June 5, 2008, effective July 1, 2008; August 10, 2009]

Rule 47.9 Recording of proceedings.

47.9(1) Interpreted testimony and communication with a judicial officer. An appropriate electronic recording shall be made of those portions of court proceedings when an interpreter is required for testimony that is given in a language other than English and when an interpreter is required for communication between a judicial officer and a participant who speaks a language other than English.

47.9(2) Retention of recordings. For small claims, civil infractions, simple misdemeanors, and uniform traffic citation cases, the recording shall be maintained for one year after entry of judgment or sentence in district court or, if the judgment is appealed, one year after entry of the final judgment on appeal. For all other cases, the recording shall be maintained for the same duration as court reporters' notes.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009]

Rule 47.10 Court interpreter and translator compensation.

47.10(1) Claims for compensation. After the close of proceedings, the interpreter or translator shall submit a claim for compensation to the court using a fee claim form approved by the state court administrator. Upon review and approval of the claim, the court shall enter an order setting the maximum amount of compensation that may be paid to the interpreter or translator.

47.10(2) Policies for compensation of court interpreters and translators. The state court administrator shall establish standard statewide fees and policies for compensation of court interpreters and translators who are paid by government entities. Government entities other than the courts that pay court interpreters and translators may adopt compensation policies that do not conflict with the policies established by the state court administrator.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009]

Rule 47.11 Written translations of court-related documents

47.11(1) Definition of a translator and a certified translator.

a. A translator is a person who can accurately transfer the meaning of written words and

1 phrases in one language into the equivalent meaning in the written words and phrases of a second
2 language.

3 *b.* A certified translator is a person who has met the requirements for translator certification
4 established by the American Translators Association (ATA) or the National Association of
5 Judiciary Interpreters and translators (NAJIT).

6 *c.* A person who is a Class A certified court interpreter under rule 47.3(3) is not a certified
7 translator of written documents unless the interpreter has also completed the requirements
8 established by the ATA or NAJIT to be a certified translator.

9 **47.11(2) Priorities in the appointment of a translator of court-related documents.** When a
10 translator of court-related documents will be needed for a court-related matter, the court shall
11 appoint a translator in the following order of preference:

12 *a.* Certified as a translator by the ATA or NAJIT;

13 *b.* A Class A certified oral language court interpreter as defined in rule 47.3(3);

14 *c.* If there is no person available who meets the qualifications in rule 47.11(2)(a) or (b) and
15 who could deliver the translated document through regular or electronic mail by the required date,
16 the court may approve a translator who has a degree from a four-year college and has sufficient
17 knowledge and experience as a translator of English and the other required language to provide a
18 complete and accurate written translation of the court-related document.

19 **47.11(3) Application for a written translation of a court-related document.** When a limited
20 English proficient (LEP) party or attorney representing an LEP party wants a court-related
21 document to be translated from English into the LEP party's primary language, or from the LEP
22 party's primary language into English, and the court or other government entity will be
23 responsible for paying the translator, the LEP party or the party's attorney shall file a timely
24 application for a written translation of a court-related document with the court. The application
25 shall include:

26 *a.* An explanation of the need for a written translation of the court-related document and why
27 an oral or sign language interpretation of the written document would not be sufficient to ensure
28 due process under the circumstances, and

29 *b.* Name, contact information, qualifications and certifications of the proposed translator,
30 consistent with rule 47.11(2), and the hourly and estimated total fee to be paid to the translator.

31 **47.11(4) Court approval of the written translation and translator.** The court may approve the
32 application for the written translation of a court-related document only if an oral or sign language
33 interpretation of the document would not be sufficient to ensure due process under the
34 circumstances. If the court approves a written translation of a court-related document, the court
35 may approve the translator identified in the application if the translator meets the criteria in rule
36 47.11(2), or the court may decline to appoint the translator identified in the application and
37 appoint a substitute translator by applying the criteria in rule 47.11(2).

38 **47.11(5) Compensation of a translator.** A translator who is approved by the court under rule
39 47.11(4) shall receive the same hourly fee as a Class A oral language interpreter as defined in rule
40 47.3(3). The court may approve a higher hourly fee only if the court has been unable to locate a
41 qualified translator who is able to send and receive documents via electronic mail, can perform
42 the requested translation services by the required date, and will provide the translation service for
43 the hourly fee of a Class A oral language interpreter. A translator approved under the rules in this
44 section shall submit a claim for compensation consistent with rule 47.10.

45 **Rule 47.12 Application of rules to administrative agency proceedings.** To the extent an
46 administrative agency is subject to these rules pursuant to Iowa Code section 622A.7 or section

1 622B.1(2), the agency is responsible for appointing interpreters to appear in agency proceedings
2 and for approving their claims for compensation.

3 [Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004;
4 August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009]

5 **Rule 47.13 Budget.** At least 60 days prior to the start of each fiscal year, the director of the OPR
6 shall submit to the court for consideration and approval a budget covering the operations provided
7 for in this chapter for the upcoming fiscal year. Approval of the budget by the court shall
8 authorize payment as provided in the budget. A separate bank account designated as the court
9 interpreter operating account shall be maintained for payment of authorized expenditures as
10 provided in the approved budget. Fees or other funds received or collected as directed in this
11 chapter or in accordance with an approved interagency agreement shall be deposited in the court
12 interpreter operating account for payment of the expenditures authorized by the approved budget.

13 [Court Order February 14, 2008, effective April 1, 2008; June 5, 2008, effective July 1, 2008; August 10,
14 2009]

15 **Rule 47.14 Applicability of Iowa Tort Claims Act.**

16 **47.14(1) Claims.** Claims against director, assistant directors, and staff of the OPR, or against
17 members of the advisory committee are subject to the Iowa Tort Claims Act set forth in Iowa
18 Code chapter 669.

19 **47.14(2) Immunity.** The director, assistant directors, and staff of the OPR and members of the
20 advisory committee are immune from all civil liability for damages for the conduct,
21 communications, or omissions occurring in the performance of and within the scope of their
22 official duties under these rules.

23 **47.14(3) Qualified immunity.** Records, statements of opinion, and other information regarding
24 an interpreter communicated by an entity, including any person, firm, or institution, without
25 malice, to the director, assistant directors, and staff of the OPR, and the members of the advisory
26 committee are privileged; civil suits for damages predicated thereon may not be instituted.